

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

THE COMMONWEALTH OF
VIRGINIA, VIRGINIA OFFICE FOR
PROTECTION AND ADVOCACY,

Plaintiff,

V.

Civil Action No. 3:07cv734

JAMES S. REINHARD, in his official capacity as Commissioner, Department of Mental Health, Mental Retardation, and Substance Abuse Services, of the Commonwealth of Virginia, et al.,

Defendants.

NOTICE BY THE UNITED STATES OF ITS NON-PARTICIPATION IN THIS ACTION

In its February 15, 2008 Order, this Court notified the United States that it appeared “that the validity of a federal regulation[,], 45 C.F.R. § 1386.22(c)(1) is in issue,” and “afforded an opportunity” for the United States “to comment upon the validity of the regulation.” The United States is appreciative of the Court’s notice concerning the presentation of this issue in this case.

Upon full consideration of the Court's invitation, including an examination of the facts and legal issues in this action as well as the views of the promulgating agency, the United States has concluded it does not need to become involved at this time. Should involvement of the United States become appropriate, the United States reserves the right to attend to its interests pursuant to 28 U.S.C. § 517 and all other provisions of law.

Respectfully submitted,

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/s/

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CERTIFICATE OF SERVICE

I hereby certify that on the __9th__ day of April, 2008, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which caused a copy of this brief to be served by NEF upon the following:

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